

1 SCOTT N. SCHOOLS (SCBN 9990)  
2 United States Attorney

~~ORIGINAL~~  
FILED

3 **E-FILING**

4 07 SEP 25 PM 12:14  
5 RICHARD M. HICKING  
6 U.S. DISTRICT COURT  
7 NO. 07-cr-00610-JF

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff, } CR No. 07 00610 JF  
13 v. } VIOLATION: Title 18, United States Code  
14 BERNADETTE ESCUE, } Section 1343 - Wire Fraud  
15 Defendant. } SAN JOSE VENUE

16  
17 JF

18 INFORMATION

19 1. At all times relevant to this Information:

20 a. Bernadette Escue ("Escue") was employed by Network Appliance  
21 Corporation ("Network") as a Global Transportation Manager and worked in Network's  
22 Sunnyvale, California facility;

23 b. Network had its principal place of business at 495 East Java Drive,  
24 Sunnyvale, California, within the Northern District of California. Network is a high technology  
25 company. Network provided corporate credit cards to Escue for her use in paying for business-  
related travel and expenses for herself and other Network employees;

26 c. J. P. Morgan Chase was the issuer of one of several corporate credit cards  
27 issued by Network to Escue. When the J. P. Morgan Chase card was used to purchase goods and  
28 services in California, information from the card and the transaction details were sent

INFORMATION

1 electronically in interstate commerce to J. P. Morgan Chase in Salt Lake City, Utah. The credit  
2 card statement reflecting the charges was sent from a J. P. Morgan office in Omaha, Nebraska, to  
3 Network in Sunnyvale, California. Network would in turn send payment to a J. P. Morgan Chase  
4 payment processing center in Phoenix, Arizona.

5 The Scheme and Artifice to Defraud

6 2. Beginning no later than February 5, 2001, and continuing to on or about October  
7 31, 2003, Escue fraudulently charged a substantial and material amount of personal expenses, a  
8 total in excess of \$90,000, to her J. P. Morgan Chase corporate credit card, and to other Network  
9 corporate credit cards issued to her, knowing that she was not authorized to charge personal  
10 expenses to her corporate credit cards and intending that those unauthorized charges would be  
11 paid for by Network.

12 COUNT ONE: (18 U.S.C. § 1343—Wire Fraud)

13 3. The factual allegations contained in paragraphs 1 and 2 are incorporated as if fully  
14 set forth here.

15 4. On or about and between February 5, 2001, and continuing to on or about October  
16 31, 2003, in the Northern District of California, and elsewhere, the defendant,

17 BERNADETTE ESCUE,

18 did devise and intend to devise a scheme and artifice to defraud Network and to obtain money  
19 from Network by means of materially false and fraudulent pretenses, representations, and  
20 promises.

21 5. On or about September 4, 2003, within the Northern District of California, and  
22 elsewhere, the defendant, for the purpose of executing said scheme and artifice to defraud, did  
23 knowingly transmit and cause to be transmitted by means of wire communication in interstate  
24 commerce certain writings, signs, signals, and pictures, namely, a request for payment of \$12,900  
25 that the defendant had charged to her Network J. P. Morgan Chase corporate credit card. This  
26 charge was not for a legitimate corporate expense. Rather, it was a tuition payment to the Drew  
27 School, a private high school in San Francisco, for defendant's son.

28 //

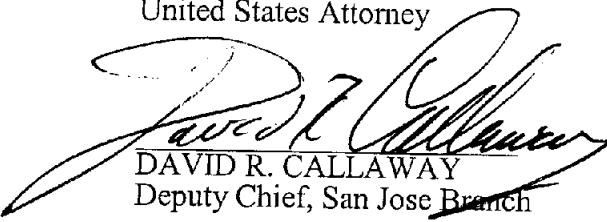
INFORMATION

1 All in violation of Title 18, United States Code, Section 1343.  
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3

4 DATED:

5 *9/24/2007*

6 SCOTT N. SCHOOLS  
7 United States Attorney

8   
9 DAVID R. CALLAWAY  
10 Deputy Chief, San Jose Branch

11 (Approved as to form:

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13 AUSA Fazioli

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INFORMATION

## DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY:  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location  
 NORTHERN DISTRICT OF CALIFORNIA

## OFFENSE CHARGED

Title 18 USC § 1343- Wire Fraud

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- Petty  
 Minor U.S.  
 Misdemeanor  
 Felony

## PENALTY:

Twenty (20) Years Imprisonment, \$1,000,000 Fine, Three (3) Years Supervised Release, Restitution and \$100 Special Assessment

## PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)  
 Federal Bureau of Investigation, Wade Luders, Special Agent

Federal Bureau of Investigation

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprocution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y  Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

SCOTT N. SCHOOLS

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

Joseph A. Fazioli, AUSA

SUMMONS  NO PROCESS\*

WARRANT Bail Amount: \_\_\_\_\_

If Summons, complete following:

Arraignment  Initial Appearance

Defendant Address:

Bernadette Escue c/o Mark Vermeulen, Esq.  
 755 Florida Street, #4  
 San Francisco, CA 94110

\*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: October 11, 2007 at 9:30 a.m.

Before Judge: Hon. Richard Seeborg

Comments: \_\_\_\_\_

07 SEP 25 PM 12:14

DEFENDANT - U.S.

BERNADETTE ESCUE

DISTRICT COURT NUMBER

CR 07 00610

DEFENDANT

IS NOT IN CUSTODY

- 1)  Has not been arrested, pending outcome this proceeding.  
 If not detained give date any prior summons was served on above charges
- 2)  Is a Fugitive
- 3)  Is on Bail or Release from (show District)

IS IN CUSTODY

- 4)  On this charge
- 5)  On another conviction
- 6)  Awaiting trial on other charges

}  Fed'l  State

If answer to (6) is "Yes", show name of institution

Has detainer been filed?  Yes  No } If "Yes" give date filed

DATE OF ARREST } Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

This report amends AO 257 previously submitted